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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,535	01/14/2005	Philippe Bourgoïn	102792-402 (11019P1)	1538

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NORRIS, MCLAUGHLIN & MARCUS  
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EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,535	<b>Applicant(s)</b> BOURGOIN ET AL.	
	<b>Examiner</b> Lorna M. Douyon	<b>Art Unit</b> 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2 pages</u> | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

1. Claims 4-8, 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-8, 14 and 18 lack support for "the first composition" with respect to claim 1. It is suggested that "first" be added before "composition" in claim 1, line 2, to overcome this rejection.

**Note:** The claim limitations of claims 9-10 are being construed as invoking 35 USC 112, 6<sup>th</sup> paragraph. In claims 9-10, the means plus function language recited in the claim is found in line 2 of each claim, i.e. "gas release means" and the corresponding structure is limited to those specified in the specification on page 5, line 16 to page 7, line 29.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 1751

3. Claims 1-15, 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts et al. (US Patent No. 6,727,215), hereinafter "Roberts".

Roberts teaches an article comprising a first pouch made of a water-soluble material comprising a polyvinyl alcohol (PVA) polymer, which comprises in its interior (a) a first solid or liquid composition; and (b) a second pouch made of a water-reactive material, comprising in its interior a second liquid composition; whereby the first pouch and the second pouch are made by thermo-forming or vacuum-forming (see claim 1). The article of the invention is made by introducing a second pouch containing composition in a first pouch, such that the first pouch encloses the second pouch completely (see col. 6, line 65 to col. 7, line 1). The process preferably comprises the steps of: (a) formation of the second pouch in open form, adding the second composition in said open second pouch and closing this to obtain the second pouch; (b) formation of the first pouch in open form, adding the second pouch and the first composition to the open first pouch and closing this first pouch to obtain the article (see col. 7, lines 2-8), and sealing which can be done by any known method such as by heat sealing or use of gluing agent (see col. 7, lines 21-27). The first composition may be a liquid, non-aqueous liquid, gel, etc., which is transparent, so that the second pouch is visible (see col. 8, lines 65-67). The first composition may be a liquid while the second composition is solid, or vice versa (see col. 9, lines 6-8). Preferred ingredients in solid compositions are effervescence sources, capable of producing a gas upon contact with water, typically CO<sub>2</sub> gas, formed by reaction of a carbonate source and an acid source (see col. 9, lines 21-28). In Example 1, Roberts teaches a Pouch B made from Chris-

Art Unit: 1751

Craft M-8630 or CXP4087, a PVA film (see col. 4, lines 56-66), comprising a solid Composition B1 which comprises percarbonate (which generates a gas on exposure to water) and wherein Pouch B and a liquid nonaqueous Composition A5 which comprises liquid nonionic surfactant, anionic surfactant and no water are placed inside a first pouch, also made of PVA film, and heat sealed (see col. 17, line 64 to col. 19, line 16). Pouch B is inside the first pouch, hence, 100% of the surface area of Pouch B (equivalent to the second compartment of the instant claims) is enclosed by the first pouch. Other preferred materials for the pouch include cellulose, cellulose ethers or cellulose esters (see col. 4, lines 13-22), which reads on the gas release means. Roberts teaches the limitations of the instant claims. Hence, Roberts anticipates the claims.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

Art Unit: 1751

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7, 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al. (GB 2,358,382), hereinafter "Edwards".

Edwards teaches a rigid, water-soluble container made of an injection moulded polymer, for example, a poly(vinyl alcohol) (PVOH) and/or a cellulose ether such as hydroxypropylmethylcellulose (HPMC), which container encases a composition, for example, a fabric care, surface care or dishwashing composition (see page 8, lines 8-14). The HPMC reads on the gas release means. Because the containers are rigid, it is easily possible to introduce two or more compartments to separate mutually incompatible ingredients (see page 10, lines 13-16; page 18, lines 19-22). In such a situation a dividing wall or walls of the compartments preferably terminate at the top of the container in the same plane as the top edge of the side walls, so that when the receptacle part is closed by the closure part the contents of the compartments cannot mix (see page 18, lines 22-28). The compartment may contain, for example, a liquid or solid component (such as a powder, granules or a compresses or gelled tablet) and another may contain a different liquid or solid (such as a powder, granules or a compressed or gelled tablet), see page 20, lines 19-24. If the composition is in liquid form, it may be anhydrous, or, for example, contain up to 5 wt% water (see page 56,

Art Unit: 1751

lines 1-2). The composition, such as a washing composition may, especially for dishwashing or laundry, include a tablet (see page 57, lines 4-11), which may be coated with a soluble polymeric material (see page 57, lines 26-27). In Figures 4 and 5, the receptacle comprises three main chambers whose contents are released into the washing water once the closure part dissolves (see page 64, lines 11-14). The section 22 in Figure 4 reads on "more than 50% of the surface area of the second compartment is enclosed by the first compartment(s)". A tablet is pressed into the central depression (see page 64, lines 17-21). The injection-mouldable material may contain one or more particulate solid in order to accelerate the rate of dissolution of the container, and this solid may also be present in the contents of the container, receptacle or capsule, for example, bicarbonate and carbonate, which generates gas (see page 44, line 21 to page 45, line 8). The composition can also contain additional ingredients like bleaches (see page 54, lines 5-8). Edwards, however, fails to specifically disclose a water-soluble container as those recited wherein the first compartment contains a composition comprising less than 5 wt% free water and a second compartment comprising a second composition which generates gas on exposure to water, and wherein more than 50% of the surface area of the second compartment is enclosed by the first compartment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a water soluble container in a manner as shown in Figures 4 and 5, and wherein the first compartment contains a composition comprising less than 5 wt% free water and a second compartment comprising a second

Art Unit: 1751

composition which generates gas on exposure to water because the teachings of Edwards encompass these aspects as discussed above.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to the above claims, and further in view of Edwards.

Roberts teaches the features as described above. Roberts, however, fails to specifically disclose the second composition as a compressed solid which is enclosed by a water-soluble polymer.

Edwards, in an analogous art, teaches a tablet coated with a water-soluble polymer and which is situated in area 22 in Figure 4 (see page 64, lines 11-21 and Figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the solid in the second compartment of Roberts with a tablet coated with a water-soluble polymer because this would provide delayed release of active ingredients as taught by Edwards on page 57, lines 23-29.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards as applied to the above claims, and further in view of Roberts.

Edwards teaches the features as described above. Edwards, however, fails to specifically disclose the first composition being transparent.



Art Unit: 1751

Roberts, in an analogous art, teaches that the first composition may be a liquid, non-aqueous liquid, gel, etc., which is transparent, so that the second pouch is visible (see col. 8, lines 65-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the liquid in the first compartment of Edwards in transparent form because this would provide visibility of the second compartment as taught by Roberts.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Lorna M. Douyon  
Primary Examiner  
Art Unit 1751